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### Notice of Allowability

Application No.	Applicant(s)
10/072,767	BATLEY ET AL.
Examiner	Art Unit
Daniel M Sullivan	1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to the after final amendment filed 20 April 2004.
2.  The allowed claim(s) is/are 21 and 25.
3.  The drawings filed on 07 February 2004 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_.
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

*Anne-Marie Falk*  
ANNE-MARIE FALK, PH.D  
PRIMARY EXAMINER

### **EXAMINER'S AMENDMENT**

This Office Action is a response to the amendment after final filed 20 April 2004. The amendment has been entered.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Seth Jacobs on 26 April 2004.

The application has been amended as follows:

In the claims:

Replace claim 21 and 25 with the following:

21. A method for determining vascular endothelial growth factor (VEGF) activity in a sample, said method comprising the steps of:

a) contacting a sample to be assayed for VEGF activity with a stable HeLa cell line

wherein the stable HeLa cell line comprises:

1) a reporter vector having; an expressible reporter element and a DNA binding

site disposed adjacent thereto and,

2) a chimeric transactivator vector comprising

a gene encoding a phosphorylatable protein that can be phosphorylated by

MAPK and a DNA binding domain which specifically binds to the DNA

binding site, and

3) an expression vector encoding a gene for a VEGF receptor; and

b) detecting expression of the reporter element, wherein expression of the reporter element indicates VEGF activity wherein the sample comprises cells, tissue, tissue extracts or combinations thereof.

25. A method for determining vascular endothelial growth factor (VEGF) activity in a sample, said method comprising the steps of:

a) contacting a sample to be assayed for VEGF activity with a stable HeLa cell line wherein the stable HeLa cell line comprises:

1) a reporter vector having: an expressible reporter element and a DNA binding site disposed adjacent thereto and,

2) a chimeric transactivator vector comprising

a gene encoding a phosphorylatable protein that can be phosphorylated by MAPK and a DNA binding domain which specifically binds to the DNA binding site, and

3) an expression vector encoding a gene for a VEGF receptor; and

b) detecting expression of the reporter element, wherein expression of the reporter element indicates VEGF activity ~~further comprising, and wherein the contacting step of~~ comprises incubating the sample with the stable ~~HeLa~~ HeLa cell line for a period of time ranging from approximately 10 hours to approximately 20 hours.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel M Sullivan whose telephone number is 571-272-0779. The examiner can normally be reached on Monday through Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel, Ph.D. can be reached on 571-272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DMS

*Anne-Marie Falk*  
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